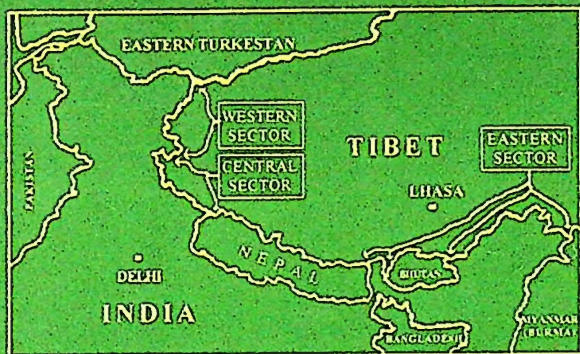


SINO-INDIAN DISPUTE OVER INDO-TIBET BORDER



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■ THE MYTH OF "SINO-INDIAN BORDER"

Has there ever been a formal delimitation of an approximately 2,500 km. boundary between Tibet and India? This is the focal point of "Sino-Indian border" dispute. Since the Chinese Prime Minister Chou-En-Lai's historic discovery of "Sino-Indian border" dispute in 1959, the Chinese stand on the question has been that "Sino-Indian border" has never been formally delimited. India, on the other hand, contends that "Sino- Indian border" has been delimited through age-old customs, traditions, treaties and agreements which India entered into with the Government of Tibet.

Both sides have their own "truth". The Chinese, because there was nothing called "Sino-Indian border" before 1959, when Chinese forces completed their occupation of Tibet. They did not recognize the treaties and agreements which the Government of Tibet had entered into with India and other neighbouring countries. It is a fact that even after 1954, when India formally recognized "Tibet as a part of China" the "Sino-Indian border" has never been delimited. The Indian side has their own ground to prove that Indo-Tibet border has been delimited through age-old customs, traditions, treaties and agreements with the Government of Tibet. However, the irony of the Indian contention is that the treaties and agreements which India and states of India entered into with independent Tibet is held to be valid without India herself observing the terms and obligations of these treaties and agreements.

In this context, It is important to examine the historical status of Tibet before discussing the Indo-Tibet boundary question.

■ THE STATUS OF TIBET

For a state to exist in international law, there must be a territory, a people and a government exercising effective control over the said territory and able to enter into international relations with other states together with self-reliant economy and a standing national army. On the eve of the Chinese military invasion of Tibet in 1949/1950, Tibet possessed all the attributes of independent statehood as recognized under international laws.

- ◆ **Territory:** The territory of Tibet historically, culturally and ethnically, stretches from the Karakoram in the west to the Shar-Dungri-Ma (Min Xian) in the east and the Himalayas in the south to the Altyn Tagh in the north. This territory comprises of an area of about 2.5 million square kilometers.
- ◆ **People:** Tibetans are racially, culturally, linguistically and historically distinct from any of their neighbours. The population of Tibet is over six million.
- ◆ **Government:** The government of Tibet was headquartered in Lhasa the capital city of Tibet. It consisted of a Head of State (His Holiness the Dalai Lama), a Cabinet of ministers (the Kashag), a National Assembly (the Tsongdu), and an extensive bureaucracy to administer the territory of Tibet.

Tibet had its own legal system, a standing national army, post and telegraph services, national currency and conducted international trade.

- ◆ **International Relations:** The sovereign status of Tibet for the purpose of International Law finds conclusive

evidence of the fact that the Tibetan Government maintained diplomatic, economic and cultural relations with countries in the region such as Nepal, Bhutan, Sikkim, Mongolia, India, and to a limited extent with Russia and Japan.

Tibet's independent foreign policy was perhaps most obviously demonstrated by the country's neutrality during World War II. Despite strong pressure from Britain, the U.S.A. and China to allow the passage of military supplies through Tibet to China when Japan blocked the strategically vital Burma Road, Tibet held fast to its declared neutrality. The Allies were constrained to respect this.

Ever since 217 B.C. Tibet had been an independent country except during short periods of imperialist aggressions. Being a deeply religious and peace-loving country, her relations with other countries were governed by a policy of peaceful co-existence and promotion of human well-being. She had played an important role in maintaining peace and harmony in Central Asia. The Dalai Lama, spiritual and temporal ruler of Tibet, was revered as the highest pontiff of Buddhist church and had been the priest or guru of the Mongol and Manchu Emperor of China. This unique priest-patron relationship between the Dalai Lama's and the Mongol and Manchu rulers of China was not well understood by the British and rest of the world. The British, on her part, saw it in her imperialistic interests to confuse the situation. She did this by recognizing Chinese suzerainty over Tibet and entering into treaties with China on trade and boundaries of Tibet without consulting the Tibetans.

Tibet naturally refused to recognize these treaties and British were unable to enforce the terms of the Sino-British treaties on Tibet. Lord Curzon, the then Viceroy of India,

realized that the Chinese claim of suzerainty over Tibet was nothing more than a "constitutional fiction-a political affectation". He chose to enter into direct relations with Tibet. When the Tibetan Government snubbed all the British attempts to enter into relations with Tibet, she sent a military expedition under Col. Young-husband in 1904. The expedition resulted in the signing of Lhasa Convention between Tibet and the British India. In the convention, China was clearly treated as a foreign power.

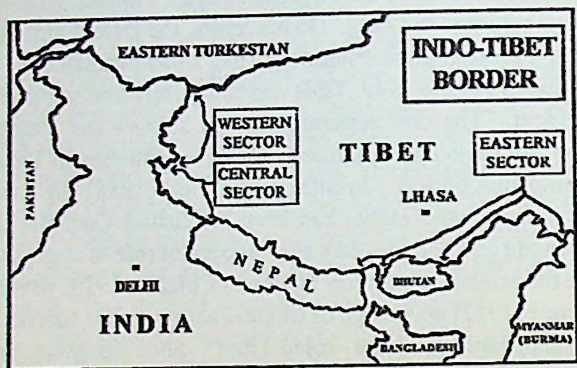
However, London, against the advice of the British India Government, continued to exercise political expediency in dealing with the question of Tibet vis-a-vis China in order to protect her wider political and commercial interest in China. The Chinese were quick to take advantage of this and invaded Tibet to assert their fictitious claim. His Holiness the Thirteenth Dalai Lama had to seek political asylum in India in 1909, quite similar to events fifty years later in 1959. The Civil War in China in 1911 offered the Tibetans a good opportunity to claim their independence. In 1912 all the Chinese in Tibet were expelled and the Thirteenth Dalai Lama returned to Lhasa. On his return, the Dalai Lama issued a proclamation reiterating Tibet's independence.

From 1912 to 1949, Tibet was completely free and independent. The contemporary foreign authors and statesmen had spoken with authority about the situation in Tibet during this period. In affairs of China (1938) Sir Eric Teichmann, who earlier had been the British Consular in Chengdu and had played a very important role in negotiating the armistice between Tibet and China in 1918, wrote: "Since (1912) no vestige of Chinese authority has survived or reappeared in Lhasa - ruled Tibet". Shen Zonglian, the last official Chinese Representative in Tibet, recounts that, "Since 1911 Lhasa (meaning, in context, Tibet) has to all

practical purpose enjoyed full independence". Mr A. Ammaury de Riencourt was in Lhasa in 1947 and has stated, "Tibet ruled itself in all respects as an independent country, the Government's writ ran everywhere, people were law abiding, peace and order reigned in Tibet". Mr H.E. Richardson, Officer-in-charge of the British and later Indian Mission in Lhasa and also Trade agent in Gyantse from 1936-40 and 1946-50, stated that until the communist invasion of 1950, Tibet enjoyed full de facto independence from Chinese control.

■ THE DEMARCATION OF INDO-TIBET BORDER

The Indo-Tibet Border is generally divided into three sectors: the Western, the Central and the Eastern; in all these sectors, borders have been demarcated with many treaties signed by a sovereign independent Tibet with her neighbours.



◆ The Western Sector

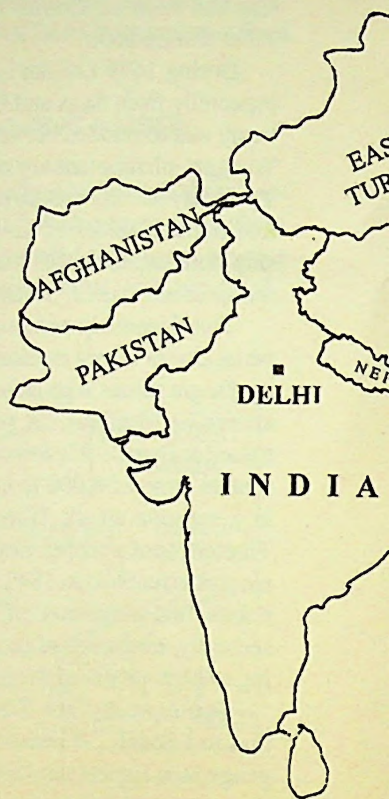
On the Western front, right from Karakoram range on the Ladakh, Tibet and Eastern Turkestan juncture to Darma La and Lipu Lake tri-juncture of India, Nepal and Tibet, boundaries had been delimited by centuries of customs and tradition between Tibet and the Himalayan states. This boundaries had been confirmed by at least two treaties between Tibet and Ladakh.

During 1679 Ladakh intruded into Tibet several times, especially from Saga and Dhoshow areas. In 1684 a peace treaty was concluded between the Ladakhi king and Mipham Wangpo, plenipotentiary of Tibetan Government in Lhasa. The treaty reiterated both countries desire to "maintain their traditional boundaries" and as a token of everlasting friendship between them, the Ladakhi king agreed to send triennial presents called "Lochakh" to Lhasa.

This friendship and good neighborliness lasted till 1841 when Dogra forces invaded Tibet. Tibetan forces defeated the Dogra forces who were driven back up till Dumra (now known as Numptra). A section of Tibetan army was stationed at Dumra. However, in 1842 Maharaja Gulab Singh sent an army of 8,000 to attack the Tibetan forces. Caught in a surprise attack Tibetans lost the battle. Thereafter, Tibetans sent a representative to Leh and an interim agreement was reached in 1842. This agreement stipulated three points: first withdrawal of Tibetan forces from Ladakh area; secondly, exchange of prisoners of war; and thirdly, meeting of high-powered delegation to make a peace treaty.

Consequently, the Tibetan Government sent a delegation to Ladakh. A peace treaty, in Urdu and Tibetan language, was signed and sealed on September 17, 1842. Both the texts referred to the boundary limits. Events which

**Tibet
and
adjacent
countries**





followed thereafter also showed clear evidence of a well defined Tibet-Ladakh boundary.

However, the Government of India played into the Chinese hands when it seriously misinterpreted the 1842 Ladakh-Tibet peace treaty in their notes and letters exchanged with the Government of China on the boundary issue. Pandit Jawahar Lal Nehru, the then Prime Minister of India, in his letter of 26 September 1959, to the then Chinese premier, stated:"

"Concerning the boundary between Tibet and Ladakh, it is incorrect to say that the then Chinese Central Government did not sent anybody to participate in the conclusion of the treaty between Tibet and Kashmir in 1842. The treaty was signed by the representatives of both the Dalai Lama and the Emperor of China. Kalon Soka, one of the signatories, though by birth a Tibetan, had Chinese rank". This is incorrect. The circumstances which led to the conclusion of the Tibet-Ladakh treaty in 1842 bears evidence that China was not involved in the dispute and was not a party to the treaty. Kalon Surkhang was the head of the Tibetan delegation as a Minister of the Government of Tibet. The very fact that he was called Kalon, a Tibetan designation for Minister, shows that he was the Tibetan Government's representative and not Chinese. By all accounts China had no authority in Tibet during this period. Tibet had, therefore, full power to enter into this treaty.

♦ The Central Sector

In the Central sector, the frontier extends from the tri-junction of Nepal, Tibet and India. Along its entire length, the boundary follows geographical principles and is considered as traditionally fixed. Discussions between the Collec-

tor of Garhwal and the Tibetan officials held from 5th to 7th September 1890 and the discussions between the Prime Minister of Tibet and the Political Officer of Sikkim on 10th July 1914 confirmed the Indo-Tibet boundaries along the Tunjun La, Mahri La, Shakhal and Balchadhura passes.

◆ **Eastern Sector**

This sector was delimited in two parts: Tibet-Sikkim and the Tibet-NEFA (Arunachal Pradesh) border.

◆ **Tibet-Sikkim Border**

The boundary between Tibet and Sikkim lies along the crest of the Great Himalayas and the Donkya ranges. This is a natural and traditional boundary. British India tried to delimit this boundary by entering into a direct agreement with China in 1890, which Tibet refused to recognize. The Tibetan Government agreed to accept this boundary line only through an agreement during the Lhasa Convention of 1904 concluded between Tibet and Great Britain.

◆ **Tibet-NEFA (Arunachal Pradesh) Border**

This boundary had been marked by the well-known McMahon Line, which was laid down by the Simla Convention of 1914 between Tibet and British India. When India became independent, she "inherited treaty obligations from His Majesty's Government". Since this convention was signed between the Tibetan Government and the British Indian Government, China refuses to recognize both Simla convention and the McMahon Line. In fact, after occupying Tibet, China had plans to draw a new border line which

would claim large chunks of Indian territory.

It is important to discuss briefly the Simla Convention in its historical perspective. After the 1913 proclamation by the Thirteenth Dalai Lama, reiterating Tibet's independence, not a vestige of Chinese influence remained in Tibet. It was at this time that Britain invited Tibet and China to a tripartite conference mentioning clearly that "the delegates should attend the conference on an equal footing". Anxious to re-establish her frozen relationship with Tibet, China unequivocally accepted to participate in the conference and negotiate for a "treaty jointly with the Tibetan plenipotentiary and the plenipotentiary appointed by the British Government".

Both the British and the Chinese delegates not only accepted Tibet's right to participate in this conference but also recognized her sovereign status by agreeing to negotiate with her on equal footing. On October 13, 1913 the first session of the conference was held with all the three plenipotentiaries presenting their credentials which also makes it clear that they met on equal footing. The convention was also initialled in the usual formalities of international treaties as follows:

"His Majesty the King and the United kingdom of Great Britain and Ireland and the British Dominions beyond the Seas, Emperor of India, His excellency the President of the Republic of China and His Holiness the Dalai Lama of Tibet, being sincerely desirous to settle by mutual agreement various questions concerning the interest of their several governments, have resolved to conclude a convention on the subject and have nominated for this purpose their respective plenipotentiaries."

During the conference, the Tibetan plenipotentiary had put forward four points to be agreed upon and incorporated into the convention. These points were: firstly, all the

internal as well as external dealings regarding Tibet will continue to be conducted by the Tibet Government. Secondly, except for the concessions Tibet gave to British India through the 1904 Lhasa Conventions, no third country will have any right to interfere in Tibetan affairs. Thirdly, apart from business entrepreneurs, no Chinese officer, ambans or military personnel will be allowed to stay in Tibet. Fourthly, Tibetan territories forcibly occupied by China in the past few decades should be returned and Sino- Tibet boundary be fixed at Dhartsedo.

In regard to the Tibet-China boundary, the Tibetan delegation produced 56 huge volumes of documentary evidence, many dating back 200 years, to prove Tibet's sovereignty over areas ruled by Tibet. These volumes were signed and certified to have been presented before the Conference by Sir Henry McMahon. When the Chinese delegation was asked to produce documentary evidence in support of their claim Sir Henry McMahon recorded: "For some days, Mr. Chen showed evident signs of panic, he protested that his government would never consent to the production of evidence in regard to the country east of Bartang or the discussions of Kokonor... Iven Chen had no other documents than a pamphlet written by General Fu Sung-Nun, recordings of Chao Erhfeng's campaigns and the published works by foreign authors."

Though the draft convention of the tripartite conference was initialled by all the three participants, the Chinese side refused to sign the final document. Faced with the Chinese refusal to sign it, Tibet and British India signed the convention on 3rd July 1914, as binding on them and agreed that "as long as the Government of China withholds signature to the aforesaid convention, she will be debarred from enjoyment of all privileges accruing therefrom." Therefore,

any claims of suzerainty by China based on the Simla Convention, the only document in which Tibet recognized a nominal suzerainty of China, was vitiated by Chinese refusal to sign it. It must also be noted that the Chinese division of Outer and Inner Tibet was also invalidated.

From the foregoing passages, following facts become absolutely clear. First, China and British India recognized Tibet's external sovereignty by agreeing to meet on equal footing in the convention. Secondly, Chinese refusal to sign the convention lost all her privileges, including claim of suzerainty, over Tibet. Thirdly, British India recognized the independence and sovereignty of Tibet. Fourthly, the validity of the McMahon Line, the legal delimitation of Indo-Tibet border on the eastern front, therefore depends on the validity of the Simla Convention.

In the international law, a validity of any treaty depends on the recognition by the parties concerned. In the case of the Simla Convention of 1914 and the border agreement, the parties concerned were British India and Tibet. Tibet respected both the Convention and the Agreement till the Chinese occupation and annexation. British India's treaty relations had been inherited by the Indian Government after her independence and the latter gave assurances to abide by all her treaty obligations. Her acceptance and adherence to the Simla Convention and the boundary agreement can be seen in the "Report of the officials of the Government of India and the People's Republic of China on the Boundary question".

"The non-adherence by the Chinese Government was irrelevant as far as the Government of India and Tibet were concerned, and the obligations they had assumed by the exchanges of letters and the Convention and the boundary alignment were binding on them both". This was made

clear to the Chinese Government even then. The Indian side drew the attention of the Chinese to the communication presented by the British Minister in Peking to the Government of China on June 25, 1914 stating:

"As it is, the patience of His Majesty's Government is exhausted and they have no alternative but to inform the Chinese Government that, unless the Convention is signed before the end of the month, His Majesty's Government will hold themselves free to sign separately with Tibet.

"In that case, of course, the Chinese will lose all privileges and advantages which the Tripartite Convention secures to them".

Therefore, it continues. "Chinese adherence and recognition was not necessary for the Anglo Tibetan Convention of July 3, 1914 and the Boundary Agreement of 25 March, 1914 to be valid".

In other words the Government of India still holds that the Simla Convention and the Boundary Agreement of March 25, 1914 are valid and binding.

It may be noted here that the Boundary Agreement is between India and Tibet, not between India and China.

The crux of the matter regarding the boundary issue is eloquently summed up by His Holiness the Dalai Lama, in his address to the Indian Council of World Affairs, New Delhi on September 7, 1959:

"The Government of India contends that the boundary between Tibet and India has been finally settled according to the McMahon Line, but this boundary was laid down by the Simla Convention, and this Convention is valid and binding only as between Tibet and the British Government. If Tibet had no international status at the time of the conclusion of the Convention, it had no authority to enter into such an agreement. Therefore, it is abundantly clear that if

you deny sovereign status of Tibet, you deny the validity of McMahon Line. On the other hand, if the McMahon Line is valid and binding, the Simla Convention must be valid and binding. And therefore, it follows as a logical corollary that Tibet did possess sovereign and international status at the time when it concluded the Simla Convention. And if it did possess sovereign status in 1914 nothing has happened subsequently to impair that status in any manner”.

Therefore, the so-called Sino-Indian border is just a myth. Prior to China's invasion and occupation of Tibet, there was no common border between India and China. The border problem arose out of the Chinese occupation of Tibet. The two are thus interlinked. One problem cannot be solved without solving the other. The legitimate party in any discussions of border with India is the Tibetan people.

“... surely, according to principles I uphold, the last voice in regard to Tibet should be the voice of the people of Tibet and of nobody else.”

[India's first Prime Minister Pandit Jawaharlal Nehru's address to the Indian Parliament (Lok Sabha) on 7 December, 1950]



